

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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:  
CURT HERRERA, :  
Petitioner, :  
: 20 Civ. 2957 (LGS)  
-against- :  
: ORDER  
UNITED STATES OF AMERICA, :  
Respondent. :  
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LORNA G. SCHOFIELD, District Judge:

WHEREAS, on January 4, 2021, Petitioner Curt Herrera, proceeding *pro se*, moved for appointment of counsel to assist him in preparing a motion for sentence reduction or compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A) due to the ongoing COVID-19 pandemic (the “Motion”). Dkt. No. 21.

WHEREAS, “there is no statutory right to counsel under the Criminal Justice Act in connection with a § 3582(c) motion, and . . . the provision of such counsel should rest in the discretion of the district court.” *United States v. Cirineo*, 372 F. App’x 178, 179 (2d Cir. 2010) (summary order) (citing *United States v. Reddick*, 53 F.3d 462, 464-65 (2d Cir. 1995)); *accord United States v. Dussard*, No. 16 Crim. 673-2, 2020 WL 6263575, at \*3 (S.D.N.Y. Oct. 23, 2020). The merits of a motion for compassionate release are a “significant factor in the exercise of that discretion.” *Reddick*, 53 F.3d at 465 n.2; *accord Dussard*, 2020 WL 6263575 at \*3.

WHEREAS, 18 U.S.C. § 3582(c)(1)(A)(i) provides that the court “may reduce the term of imprisonment” only if it finds that “extraordinary and compelling reasons warrant such a reduction . . . and that such a reduction is consistent with applicable policy statements issued by the Sentencing Commission.”

WHEREAS, the Court is not at this time appointing counsel to represent Petitioner in

connection with the Motion and is obtaining additional information before issuing a decision on Petitioner's request that the Court appoint counsel. It is hereby

**ORDERED** that because the merits of a motion for compassionate relief are a significant factor in the Court's decision as to whether to appoint counsel, by **February 5, 2020**, the Government (1) shall obtain and send a complete set of Petitioner's updated BOP medical records to the chambers e-mail address, (2) shall file a letter summarizing or highlighting any pertinent portion of such medical records and provide any other facts that the Government believes to be relevant to Petitioner's proposed motion and (3) shall transmit a copy of such medical records to Petitioner along with a copy of this Order.

Dated: January 27, 2021  
New York, New York



LORNA G. SCHOFIELD  
UNITED STATES DISTRICT JUDGE